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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attention: Blaise Scinto, Esq.
Deputy Chief, Policy Division
Wireless Telecommunications Bureau

Re: Samsung Telecommunications America, Inc. and
Samsung Electronics Co., Inc.
Request for Waiver
CC Docket No. 99-328

Dear Ms. Salas:

On behalf of our clients Samsung Telecommunications America, Inc. and Samsung Electronics Co., Inc. ("Samsung"), this letter provides additional information requested by the Commission regarding the above-referenced request for waiver.

1. **Status of Testing of Revised Software.** Samsung has completed testing on the models of the Affected Handsets (as defined in the request for waiver) that comprise the overwhelming majority of the digital handsets with analog back-up that Samsung produces for sale and distribution in the United States. Those modified handsets and software have been sent to Samsung's carrier customers for testing and evaluation for compatibility with individual networks. Samsung has responded to technical comments from its carrier customers relating to the operation of the new handset software changes on their particular networks, has made modifications to its software to address those issues, and is now awaiting final approval from the carriers. For one handset model which comprises a small percentage of Samsung's overall handsets that will continue in production, Samsung anticipates completing its testing so that carrier testing can begin this week.

Although carrier testing has not been completed, Samsung believes that it will have carrier-approved software incorporating the Commission-approved A-B/IR analog 911 call processing methodology for future production by the deadline of July 15 set forth in its waiver

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request. Upon receiving carrier approval for any model of the Affected Handsets, Samsung is prepared immediately to substitute the carrier-approved software in its manufacturing process so that, thereafter, the new software would be included in future production for that model and that carrier.¹

2. **Samsung Software Upgrade Practice.** In its above-referenced request, Samsung stated that, to the extent any Samsung multi-mode handset (regardless of date of manufacture) is returned to Samsung for repairs (unrelated to the E911 matter at hand) ultimately requiring software upgrades, such handset shall be reprogrammed with software using a Commission-approved 911 calling methodology, provided that the handset is capable of receiving the new software at the time Samsung receives the unit for such repairs. In late 1999, Samsung determined to discontinue two models of the Affected Handsets in mid-year 2000. The discontinued models will not accept the new software used in other Samsung models continuing in production. Samsung has been producing handsets in these models in only very limited quantities since late 1999. These products have reached the end of their life cycle and no new purchase orders have been generated for them by Samsung's carrier customers. Thus, Samsung is taking these models out of its product mix and will have done so entirely by July 15. As a result, Samsung has no prospect of getting its carrier customers to go through the testing procedures necessary to approve new software for these units for use on their networks. Accordingly, those two models would not be manufactured after the end of the requested waiver period.

3. **Handsets Affected by Waiver.** Samsung submits that grant of the requested waiver will not have a significant qualitative or quantitative effect on the achievement of the objectives in the Commission's *E911 Second Report and Order*. Samsung is a new entrant and, at present, a very small player in the United States wireless handset market. Furthermore, all of Samsung's handset production for the U.S. market is for carriers with digital-preferred networks using CDMA technology and only part of Samsung's CDMA handsets – the "Affected Handsets," as described in Samsung's waiver request – include analog backup so as to be subject to Section 22.921.

Because Samsung only produces handsets for CDMA networks, all of the handsets that Samsung would produce and distribute under the requested waiver would include all of the capabilities and safeguards that the Commission found in the *E911 Second Report and Order* to be sufficient, without the capability of analog backup, to achieve the Commission's purposes. The requested waiver would apply, paradoxically, to those of Samsung's handsets that, in addition to those digital capabilities, also have analog backup as an additional safeguard.

¹ The delay between manufacturing in Korea and the receipt of manufactured product in the United States generally is just under three weeks. Section 22.921 of the Commission's Rules applies only to the date of manufacture of handsets and does not restrict subsequent distribution. Samsung's requested waiver to manufacture the Affected Handsets through July 15, 2000, thus contemplates distribution of any Affected Handsets manufactured prior to that date.

As Samsung's pointed out in its waiver request, the Commission previously has granted similar waivers to handset providers whose U.S. handset market shares dwarf that of Samsung, including Nokia, Motorola, and Ericsson. DataQuest/GartnerGroup, in its fourth quarter 1999 review of the U.S. mobile handset market (which excluded Motorola sales of iDEN handsets), reported Samsung's U.S. overall market share at year end 1999 as 5.2%,² ranking below Nokia (35.7%), Motorola (19.8%), Qualcomm (11.2%), Audiovox (10.0%), and Ericsson (9.3%).³ The Strategis Group's report *U.S. Wireless Handsets: Marketshare and Trends (January, 2000)* similarly indicates that the dominant U.S. wireless handset provider in 1999 was Nokia, with 34.5% of the U.S. market, followed by Motorola with 23.1%, Qualcomm with 12.0% and Audiovox with 11.8%, with Samsung's market share not rising to a sufficient level to be mentioned. The study, however, also excluded handsets produced for Motorola's iDEN wireless technology and thus, understated Motorola's share of the U.S. handset market as a whole. Qualcomm -- which, like Samsung, manufactures CDMA handsets -- was reported as the leading producer of CDMA handsets with a 12.0% overall U.S. handset market share.⁴

The waiver requests of Nokia, Motorola and Ericsson were submitted prior to the February 13, 2000 date set by the Commission's Rules, but -- based on the industry market information set forth above -- the effect of those granted waivers on the nationwide transition to the use of Commission-approved analog 911 calling methods necessarily is greater than any effect from grant of the Samsung request. In each case, the requested waiver was to allow the manufacturing of some additional handsets with analog capability that do not follow a Commission-approved analog 911 call processing method. Thus far, based on the DataQuest market estimates cited above, the Commission has found it in the public interest to grant similar waivers to manufacturers with approximately a 65.5% aggregate share of the U.S. handset market (according to the DataQuest figures) -- well over ten (10) times Samsung's share of the U.S. handset markets. The Commission has found that grant of those waivers was consistent with Commission objectives in effectuating a transition to improved analog 911 call handling. Samsung, in contrast, only has a tiny present share of the U.S. handset market (5.2%) even

² This Samsung market share estimate includes all U.S.-market handsets, and the Samsung handsets for which the waiver is sought are only those CDMA handsets that have analog backup.

³ See DataQuest/GartnerGroup, "The North American Wireless Market Place: Fourth Quarter 1999 Review (May 1, 2000) at Table 6 ("Top Companies' U.S. Market Share for Sales of Mobile Handsets to End Users"); see also DataQuest/GartnerGroup, Second Quarter 1999 Review of the U.S. Mobile Handset Market, quoted in Press Release, DataQuest/GartnerGroup, September 28, 1999 (<http://gartner11.gartnerweb.com/dq/static/about/press/pr-b9954.html>) and in CDMA One/CDMA Development Group, November 1999, at 10 (http://www.cdg.org/hot_new/nov_99.html).

⁴ U.S. Wireless Handsets: Marketshare and Trends (January 2000), quoted in "Nokia and Motorola Dominate U.S. Handset Market," The Strategis Group, January 17, 2000 (<http://www.strategisgroup.com/press/pubs/wirehand.html>)

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counting – as the DataQuest estimates do – its all-digital handsets that raise no analog 911 issues. Moreover, Samsung's Affected Handsets have analog capability only as a backup for those subscribing to digital preferred networks. Accordingly, Samsung submits that grant of its requested waiver also would serve the public interest and also would be consistent with the objectives of the Commission's *E911 Second Report and Order*.

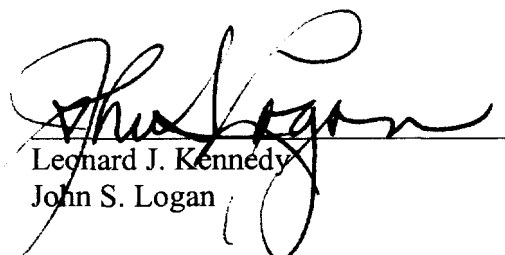
Accordingly, Samsung submits that, for all the reasons stated above and in Samsung's original Request, the Commission should expeditiously waive compliance with Section 22.921 and grant Samsung emergency temporary authority to manufacture handsets incorporating its current 911 call completion method until July 15, 2000, and to distribute them in the United States.

Please do not hesitate to call if any questions should arise.

Respectfully submitted,

**SAMSUNG TELECOMMUNICATIONS AMERICA, INC.
SAMSUNG ELECTRONICS CO., INC.**

By:



Leonard J. Kennedy
John S. Logan
Their Attorneys

cc: Per attached Certificate of Service

CERTIFICATE OF SERVICE

I, Tracie R. Watts, a legal secretary at Dow, Lohnes & Albertson, PLLC, hereby certify that on this 20th day of June 2000, I caused to be served by hand delivery, a true copy of the foregoing, upon the following:

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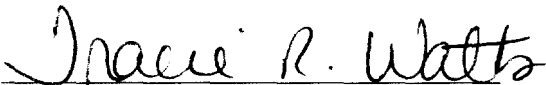
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